

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE:

B-223158.2

DATE: June 30, 1986

MATTER OF:

Coastal Industries, Inc.--Reconsideration

DIGEST:

1. Dismissal of original protest is affirmed, and protest will not be reopened, where protester failed to file protest within 10 working days of the date the basis for protest was known.
2. Protesters are charged with constructive knowledge of GAO's Bid Protest Regulations.

Coastal Industries, Inc., requests reconsideration of our dismissal of its protest under solicitation No. 7PFS2628/P4/7SB issued by the General Services Administration (GSA). We affirm the prior dismissal.

Coastal filed a protest with this Office on May 21, alleging that GSA improperly rejected its bid. By letter of May 28, GSA requested dismissal of Coastal's protest. GSA provided evidence--a notice of protest dated May 5, 1986, filed with the General Services Board of Contract Appeals (GSBCA)--that the protester knew as of that date that its bid was rejected and award made to another firm. Thus, we concluded that Coastal's basis of protest was known to Coastal at least as of May 5. We dismissed the protest as untimely in accordance with our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1986), which require that protests alleging other than solicitation improprieties be filed within 10 working days of the date the basis for protest is first known or should have been known.

Coastal now requests reconsideration of our dismissal on the grounds that it was not adequately informed of our filing procedures by the contracting officer, that neither the contracting officer nor the solicitation provision entitled "Service of Protest" adequately apprised the firm as to the time limits for filing a protest, that its protest was untimely because there are no "criteria" which advise a contractor of the proper forum to file its protest, i.e., with the General Accounting Office or the GSBCA, and that

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our dismissal unfairly penalized the contractor because it filed its protest initially with the GSBICA.

We find nothing in the company's request for reconsideration which meets its burden to show that our prior dismissal was legally or factually incorrect. See Department of Labor--Reconsideration, B-214564.2, Jan. 3, 1985, 85-1 C.P.D. ¶ 13 at 2. The timeliness standards included in our Bid Protest Regulations are an important part of the protest process which ensure equitable and prompt resolution of protests. See J.M. Security Service, B-218207.2, May 3, 1985, 85-1 C.P.D. ¶ 498. Thus, timeliness standards for the filing of protests must be and are strictly construed by our Office. Marconi Electronics, Inc., B-218088.4, Mar. 27, 1985, 85-1 C.P.D. ¶ 368.

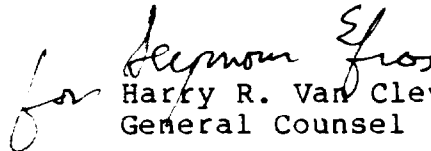
Although the protester attributes untimely receipt of its protest to its not being informed by the agency of our timeliness requirements, we note that our regulations are published in the Federal Register and protesters are charged with constructive notice of their contents. Milwaukee Industrial Clinics, S.C.--Reconsideration, B-220293.2, 65 Comp. Gen. 17 (1985), 85-2 C.P.D. ¶ 426. The regulations clearly advise the public of our filing procedures. Therefore, the protester is not excused from complying with our 10-day filing requirements because of its alleged unawareness of these published regulations.

Finally, on the issue of whether there are criteria which set forth where protests should be filed, we note that the Competition in Contracting Act of 1984, which gives our Office and the GSBICA authority to resolve bid protests, specifically states that only automated data processing disputes will be heard by the GSBICA; all other disputes pertaining to alleged violation of procurement statutes or regulations shall be decided by the General Accounting Office. 31 U.S.C.A. § 3551, et seq. (West Supp. 1985), and 40 U.S.C.A. § 759 (West Supp. 1985). Our Bid Protest Regulations also indicate that while we will consider protests of solicitations issued by federal agencies for property or services generally, the GSBICA will consider only protests of solicitations of automated data processing equipment. See 4 C.F.R. §§ 21.1 and 21.3(f) (6) (1986).

It is clear, therefore, that the protester was at least on constructive notice of when and where its objection to GSA's rejection of its bid should have been filed.

Consequently, Coastal's protest filed on May 21 was untimely and was properly dismissed without consideration of the merits. 4 C.F.R. § 21.3(f) (1986).

The prior dismissal is affirmed.


Harry R. Van Cleve
General Counsel